

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:05-CR-18

FALICIA BROWN,

Hon. David W. McKeague

Defendant.

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**REPORT AND RECOMMENDATION**

Pursuant to W.D. Mich. LCrR 11.1 and upon a request of the district court, I conducted a felony plea hearing in this matter on May 4, 2005, after receiving the written consent of the defendant, the defendant's attorney, and the attorney for the government. These consents were also placed on the record in open court.

Defendant Falicia Brown is charged in several counts of a multi-count Indictment with various drug-related offenses. She is charged in Count 11, the count to which she pled guilty, with aiding in the distribution of 5 grams or more of crack cocaine within 1,000 feet of a school. I reviewed the facts with the defendant which show that she aided and abetted the offense charged. Briefly stated, the facts show that on April 26, 2004, defendant accompanied her boyfriend to an anticipated drug deal at a D&W, but that the sale did not go down because the boyfriend did not have enough crack cocaine with him to sell. Arrangements were made to complete the transaction later that day at an apartment used by the defendant and two co-defendants. At that time, defendant let the buyer (a federal agent) into the apartment where the agent purchased 18 grams of crack cocaine

from a co-defendant (who kept his face hidden by talking from another room, leaving defendant alone with the drugs and the buyer). The apartment is easily within 1,000 feet of two elementary schools.

On the basis of this record, I found that defendant was competent to enter a plea of guilty and that her plea was knowledgeable and voluntary with a full understanding of each of the rights waived by the defendant, that the defendant fully understood the nature of the charge and the consequences of her plea, and that the defendant's plea had a sufficient basis in fact which contained all of the elements of the offense charged.

I also inquired into the plea agreement. I found the plea agreement to have been knowingly and voluntarily made and found that it fully reflected all of the promises made by the parties.

Accordingly, I accepted the plea of guilty, subject to final acceptance of the plea by the District Judge, and I specifically reserved acceptance of the plea agreement for the District Judge. I ordered the preparation of a presentence investigation report, and directed that a transcript of the proceedings be prepared and filed with the Clerk of the Court.

**Recommendation**

Based upon the foregoing, I respectfully recommend that the defendant's plea of guilty to Count 11 of the Indictment be accepted, that the court adjudicate the defendant guilty of that charge, and that the written plea agreement be accepted at, or before, the time of sentencing.

Dated: May 5, 2005

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/s/ Hugh W. Brenneman, Jr.

Hugh W. Brenneman, Jr.  
United States Magistrate Judge

### **NOTICE TO PARTIES**

You have the right to de novo review by the district judge of the foregoing findings. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten (10) days after the plea hearing. See W.D. Mich. LCrR 11.1(b).